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SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY
NOTIFICATION

The 10th December, 2015

No.12704/L.A.—The following Bill which has been introduced in the Odisha Legislative Assembly on the 9th December, 2015 is herewith published under rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information

THE ODISHA ZILLA PARISHAD (AMENDMENT) BILL, 2015

A

BILL

FURTHER TO AMEND THE ODISHA ZILLA PARISHAD ACT, 1991

Be it enacted by the Legislature of the State of Odisha in the Sixty-sixth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Odisha Zilla Parishad (Amendment) Act, 2015.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of
section 33.

2. In the Odisha Zilla Parishad Act, 1991 (hereinafter referred to as the principal Act) , in section 33, in sub- section (2), after clause (iv), the following clause shall be inserted, namely :—

Odisha
Act 17 of
1991.

“ (v) has been disqualified under section 33 B”

Insertion of new sections 33 B, 33 C, 33 D and 33 E.

3. In the principal Act, after section 33 A, the following sections shall be inserted, namely :—

^{"Disqualification on the ground of defection}

33. B. Subject to the provisions of section 33 C,—

(i) if an elected member of the Parishad belonging to any political party voluntarily gives up his membership of such political party, or if such member, contrary to any direction issued by the political party to which he belongs or by a person or authority authorized by it in this behalf, votes or abstains from voting, without obtaining prior permission of such political party, person or authority, in a meeting of the Parishad, in an election of its President, Vice-President, a member of a standing committee, or the Chairman of a standing committee, or in a voting on a no confidence motion against any one of them; and

(ii) if an independent member joins any political party after becoming a member of the Parishad;

he shall be disqualified for being a member of that Parishad.

Explanation.—For the purpose of this section an elected member or an independent member of the Parishad shall be deemed to be the member referred to in clause (a) of sub-section (1) of section 6.

Disqualification on ground of defection not to apply in case of merger.

33. C. (1) A member of a Parishad shall not be disqualified under section 33 B where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purpose of section 33-B and to be his original political party for the purpose of this sub-section;

(2) For the purpose of sub-section (1) of this section, the merger of the original political party of a member of a Parishad shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the party concerned have agreed to such merger.

Decision on question of disqualification on ground of defection.

33. D. (1) Notwithstanding anything contained in section 34, if any question arises as to whether a member of the Parishad has become disqualified under section 33-B, such member or the political party concerned or a person authorized by it in that behalf may file a petition before the Election Commission for his decision.

(2) The Election Commission shall, after making such inquiry as it may deem necessary, decide whether such member has become disqualified or not and its decision shall be final.

(3) Where the Election Commission decides that a member has become disqualified under sub-section (2), he shall notify the same in the official Gazette and the said member shall be deemed to have ceased to be the member of the Parishad with effect from the date of such notification and shall be disqualified for contesting as a candidate in an election to any Parishad, Panchayat Samiti or Grama Panchayat for six years from that date.

Powers of the Election Commission.

33. E. (1) Every petition under sub-section (1) of section 33-D shall be disposed of by the Election Commission in accordance with the procedure as applicable while trying a suit under the Code of Civil Procedure, 1908 and for that purpose the Election Commission shall have the powers of a Civil Court in respect of the following matters,—

5 of 1908

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) requiring the discovery and production of any document or other materials that may be produced as evidence;
- (iii) receiving evidence on affidavit;
- (iv) requisitioning any public record or copy thereof; and
- (v) issuing commission for taking evidence from witness or document.

(2) The proceeding before the Election Commission under sub-section (1) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860.”.

45 of 1860

STATEMENT OF OBJECTS AND REASONS

Zilla Parishad members are elected directly contesting election to Parishad on political party basis. They use their respective party symbols and the party tickets for filing of nomination and contesting election. It is experienced from the past that the candidates being elected to the Parishad from a particular party, give up their membership from the party and join another political party resulting in political instability in the Parishad and this also seriously affects the day to day function of the Parishad. There is no provision in the Odisha Zilla Parishad Act, 1991 to cure consequential effects to such defection.

It is therefore, necessary to provide measure prohibiting such defection in the Act, so as to curtail such defection in the Parishad. Hence, it has been proposed to insert new sections i.e. 33 B. 33 C 33 D and 33 E and also to amend section 33 providing that if an elected member of the Parishad belonging to any political party voluntarily gives up his membership, or if such member, contrary to any direction issued by the political party to which he belongs or by a person or authority authorized by it in that behalf, votes or abstains from voting in a meeting of the Parishad, in an election of its President, Vice-President, a member of a standing committee or the chairman of a standing committee, or in a voting on a no confidence motion against any one of them, and if an independent member joins any political party after becoming a member of the Parishad, he shall be disqualified for being a member of that Parishad.

The question of disqualification on the ground of defection shall be decided by the State Election Commission.

The Bill seeks to achieve the above objectives.

ARUN KUMAR SAHOO

Member-in-Charge

A.K. SARANGI

Secretary

Odisha Legislative Assembly